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tration of dowers ; No. 7, Tenos, registration of sales of real estate ; No. 8, a complete *corpus* of mortgage inscriptions on boundary stones, sixty-eight in number, from Attica, Lemnos, Amorgos, Syros, Naxos ; No. 9, Eretria, contract for draining a marsh ; No. 10, Cnidos, judgment rendered by Cnidos in favor of Calymna. Each of these inscriptions gives occasion for a considerable treatise upon the subjects contained in them. Especially valuable are those on dower and mortgage. The names of the editors are a sufficient guarantee for accuracy in their work. M. Dareste in particular is widely known as a high authority on legal antiquities and as a frequent contributor to periodicals of articles upon the inscriptions published in this collection. It is very appropriate that the most important of these should be gathered into a single volume where they can be studied together and in continuity.

A. C. MERRIAM.

*The Origin of Property in Land.* By FUSTEL DE COULANGES.

Edited by W. J. ASHLEY, M.A. London, Swan Sonnenschein & Co., 1891. — xlviii, 153 pp.

This work is a translation of Fustel de Coulanges's able argument against communal holding of land, which appeared in the *Revue des Questions Historiques* nearly three years ago. The character of the essay hardly justifies the title ; for we have not here a discussion of how property originated, but an *ex parte* argument to show that the opinions of Maurer, Viollet, Mommsen, Laveleye and Jubainville, who support the existence of an original agrarian community, are without historical foundation. M. Fustel's title was *Le Problème des Origines de la Propriété Foncière*, but we have still to wait for a work which, with no theory to defend, shall present the views of the various scholars who have discussed, from one side or the other, this important subject. Aside, however, from its inadequacy in this direction, this book will serve a most useful purpose in causing students and readers to stop and think a little more about the subject, particularly as presented in such a superficial work as that of Laveleye ; for here M. Fustel's criticism seems wholly justifiable. Furthermore, in presenting to us in compact form the method which he pursued in his examination of mediæval institutions, M. Fustel has revived one feature of historical method which seemed to be suffering neglect, *viz.* critical, accurate observation. But at the same time the book contains all the faults of that method — too close adherence to the interpretation of text, a tendency to slur over evidence which opposes the author's theory, to interpret all evidence in its favor and to slight his opponents, whether by speaking of them in uncomplimentary terms, by misrepresenting them or by neglecting them altogether, and finally a practical avoidance of the comparative method.

Regarding this latter method the author has many weighty observations, which might well become axioms ; but while laying down the conditions of its use, M. Fustel does not in fact employ it. Only in *La Cité Antique* has he used it at all.

M. Fustel's searching judgment upon all superficial investigation has led him to take too masterful an attitude as a critic. Take for example his criticism of M. Viollet, perhaps a careless but yet not an unworthy opponent. Viollet had said that M. Fustel had been unable to recognize the great historical fact of an original community in land, "because he saw that every family had its own hearth, its own worship, its own ancestors." To this M. Fustel replies :

This is true. I willingly grant that the facts which I saw and which I have completely proved prevented me from seeing the imaginary facts that M. Viollet thought he described in his eleven quotations. [Page 96.]

Will the historical world acknowledge that the theories in *La Cité Antique* are completely proved? Again, notice a treatment of Laveleye, in a measure warranted and yet not quite fair. M. Laveleye in attempting to prove common ownership refers to the Law of the Twelve Tables regarding succession and quotes Gaius wrongly. M. Fustel, seizing upon this misquotation, contemptuously dismisses the whole passage, giving Laveleye no credit for the truth of his statement, that in default of *proximus agnatus* the gens received the *familia* ("gentiles familiam habento").

There is, however, a more serious weakness in M. Fustel's method, since he leaves practically untouched the very keystone of the theory which he opposes. He frequently recognizes in this and other works the existence of rights common to groups of villagers ; but without inquiring into the origin of such, he merely says : "We are here far removed from the community 'of the associates of the mark' ; for in this instance the cultivators of the soil are merely tenants under a proprietor." The origin of communal rights he thinks to be based on the legal theory of dominical grant. It is not easy for Professor Ashley to criticise M. Fustel, but on this point he ventures the opinion that the latter has failed to understand the importance of the economic side, — a fact plainly apparent. Whereas many writers have magnified traces of an original communal system, M. Fustel cannot see them at all. It is along this line that M. Glasson has taken the great historian to task in a small work, of the existence of which Professor Ashley does not seem to be aware. All who read M. Fustel's writings should in justice read *Les Communaux et le Domaine Rural à l'Époque Franque ; Réponse à M. Fustel de Coulanges*.

Professor Ashley's introduction is full of interest and contains much

valuable information. It is chiefly in support of Mr. Seebohm's theory of a Roman origin for the English manor, to which on the whole Professor Ashley adheres. This theory is based on the supposition that the manor sprang full grown from the ruins of a Roman occupation, *i.e.* it denies its growth on English soil. Surely there is much that is gratuitous about this assumption. We find the Saxon manor of 1000 A.D. in many respects similar to the Roman villa of Varro and Columella, which latter we may rightly say was unchanged at the time of the *Völkerwanderung*. Here is a period of 600 years without evidence; for all Mr. Seebohm's evidence before the *Rectitudines* proves nothing more than that the germs of the seigneurial element existed from the beginning.

But Professor Ashley even goes so far as to say that the connection between the Roman villa and this seigneurial element is in his opinion conclusively proved (page xlii). This hardly does credit to Professor Ashley's critical faculty. The character of *eorles tūn* and *mannes tūn* in Æthelbirht is, there is every reason to believe, identical with that of the Danish *by* in the north, where there was no such Roman influence. Yet in the north the manorial system developed, as well as in the south. There is nothing to show even in the least degree that these *tūns* of Æthelbirht were Roman villas or in any way comparable to Roman villas. There is no indication of *gafol* or *gafol* land. In Ine we find more of the elements of the manor, but know nothing about the work, upon which the whole question turns. There is *gafol* land and yard land, but no mention of week-work, *precationes*, or of more than one class of *ceorls*, the *gebūras*. The letting of a yard land bears all the ear-marks of a new, not an old custom; even as late as the time of Ælfred there are indications that *gafol* was not universal, and *cotsetlas* are not heard of until the middle of the tenth century. Regarding the manors at Hysseburne and Tidenham, we can simply say that the statements indicating a greater degree of serfdom are weak at best, and we may apply Fustel de Coulanges's own dictum, with a slight change of wording: One cannot judge of the whole *English world* from a chance occurrence in the *manor at Tidenham* (*cf.* page 95). In fact there are many missing links in Mr. Seebohm's theory and much pure conjecture; and as Professor Ashley criticises Fustel de Coulanges for his lack of economic insight, so we may venture to criticise Professor Ashley for not being more of an historian. We can but commend to all discussing this subject Professor Pollock's remark, that "no writer has yet committed himself to a theory on this matter without underrating the complexity of the problem and omitting to deal adequately with one or more necessary problems." The origin of the manor can only be solved by combined efforts on the part of students in constitutional and economic history and in the history of law.

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